

# Assembly Hearing Slip

(Please print plainly)

Date: 3/15/00  
Bill No. AB 866  
Or  
Subject \_\_\_\_\_

Name Mark Gundrum  
Street Address or Route Number 4850 S. Courtland Pkwy  
City and Zip Code New Berlin WI 53151

Representing \_\_\_\_\_

Speaking in favor:	<input checked="" type="checkbox"/>
Speaking against:	<input type="checkbox"/>
Registering in favor:	<input type="checkbox"/>
Registering against:	<input type="checkbox"/>
Speaking for information only:	<input type="checkbox"/>
Neither for nor against:	<input type="checkbox"/>

Please promptly return this slip to the messenger at the committee.

Provided by:  
Assembly Sergeant at Arms  
411 West, State Capitol  
Madison, WI 53708

# Assembly Hearing Slip

(Please print plainly)

Date: 3/16/2000  
Bill No. 866  
Or  
Subject \_\_\_\_\_

Name Steven M Voep  
Street Address or Route Number 15890 W MARLETTA DR  
City and Zip Code New Berlin WI 53151

Representing Self

Speaking in favor:	<input checked="" type="checkbox"/>
Speaking against:	<input type="checkbox"/>
Registering in favor:	<input type="checkbox"/>
Registering against:	<input type="checkbox"/>
Speaking for information only:	<input type="checkbox"/>
Neither for nor against:	<input type="checkbox"/>

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Madison, WI 53708

# Assembly Hearing Slip

(Please print plainly)

Date: 3/16/00  
Bill No. 866  
Or  
Subject \_\_\_\_\_

Name Brian J. Voep  
Street Address or Route Number 15850 W. Marlett Dr.  
City and Zip Code New Berlin 53151

Representing Self

Speaking in favor:	<input checked="" type="checkbox"/>
Speaking against:	<input type="checkbox"/>
Registering in favor:	<input type="checkbox"/>
Registering against:	<input type="checkbox"/>
Speaking for information only:	<input type="checkbox"/>
Neither for nor against:	<input type="checkbox"/>

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# Assembly Hearing Slip

(Please print plainly)

Date: 3/15/00

Bill No. AB 866

Or  
Subject \_\_\_\_\_

Name Chris Nelson

Street Address or Route Number 123 W. Washington

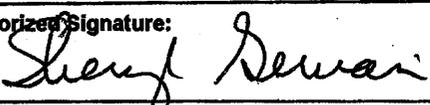
City and Zip Code Madison, WI 53703

Representing Office of Crime Victims Services

Speaking in favor:	<input type="checkbox"/>
Speaking against:	<input type="checkbox"/>
Registering in favor:	<input type="checkbox"/>
Registering against:	<input type="checkbox"/>
Speaking for information only:	<input type="checkbox"/>
Neither for nor against:	<input type="checkbox"/>

*Submitted memo*  
Please promptly return this slip to the messenger at the committee.

Provided by:  
Assembly Sergeant at Arms  
411 West, State Capitol  
Madison, WI 53708

<b>1999 Session</b>		LRB Number <b>3691/1</b>
<b>FISCAL ESTIMATE</b> DOA-2048 N(R06/99)		Bill Number <b>AB 866</b>
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL		
<b>Subject</b>  <b>Victim Statements</b>		Amendment No. if Applicable  Administrative Rule Number
<b>Fiscal Effect</b> State: <input checked="" type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs
Local: <input checked="" type="checkbox"/> No local government costs		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<b>Fund Sources Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		<b>Affected Chapter 20 Appropriations</b>
<b>Assumptions Used in Arriving at Fiscal Estimate</b>  <p>This bill provides that a judge who is setting conditions of release for a person charged with a felony may allow a victim of the offense to provide the judge with an oral or written statement concerning conditions of release.</p> <p>This bill would not have any significant impact upon circuit court operations. It should be noted that the bill refers specifically to judges allowing these statements and that many of these proceedings are also held before court commissioners. It is unclear if court commissioners are covered under this bill.</p>		
<b>Long-Range Fiscal Implications</b>		
Prepared by: <b>Sheryl Gervasi</b>	Telephone No. <b>608-266-6984</b>	Agency <b>Director of State Courts</b>
Authorized Signature: 	Telephone No.	Date <b>3/13/00</b>



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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March 14, 2000

Representative Scott Walker  
Chair of the Assembly Corrections and the Courts Committee  
State Capitol  
P.O. 8953  
Madison, WI 53708

Re: AB 866/Victim input on conditions of release

Dear Chairman Walker:

This letter is written for informational purposes only. In my employment with the Wisconsin Department of Justice I administer the county victim/witness assistance programs, of which there are now 70. Much of my time over the past 16 months was spent assisting victim/witness program staff and other allied professionals to implement 1997 Wisconsin Act 181 requirements, a/k/a the victim's rights enabling legislation.

The LRB analysis for AB 866 correctly points out victims do not currently have a right to receive notice of bail hearings or to provide input to the judge regarding conditions of release. Although the idea of providing victims an opportunity to participate at this stage of the process may be a good one, the specific language of the bill raises questions and concerns.

Allowing a crime victim, who most likely will be a witness for the state, to submit an oral or written statement to the judge before a plea or conviction is on the record, is problematic. Even though a victim's statement at the bail hearing must be related to conditions of release, it is inevitable the victim will comment on the acts committed by the defendant. This produces a sworn statement by a victim/witness and the statement may or may not be exactly like the statement provided to law enforcement, therefore potentially producing an inconsistent witness statement.

Almost routinely, prosecutors request as a condition of release that the defendant have no contact with the victim. With regards to domestic abuse cases, a cautionary note: by allowing the victim to address the court at bail hearings, an abusive offender may use this opportunity to further coerce and intimidate the victim, demanding that the victim tell the judge to lift the no

contact provision. Granted those pressures exists now on the victim who is pressured to try and have the charges dropped etc. However, AB 866 elevates the victim's standing at the bail hearing, with the right to communicate directly with judge.

AB 866 requires law enforcement and district attorneys to inform victims of their opportunity to provide input to the judge at a bail hearing. However, AB866 does not require anyone to inform the victim of when, where and before whom the hearing will be held. Experience has shown, without a law specifying who is responsible to provide the information, it will not be done. The lack of accountability will only add to victims' frustrations with the justice system.

From a practical and implementation standpoint, most district attorneys, via the victim/witness program, make the initial contact with victims, in writing, **after** the initial appearance. This is consistent with what is allowed under s. 950.08(2r) which states district attorneys must provide victims written information about their rights "As soon as practicable, but in no event later than 10 days after the initial appearance...or 24 hours before a preliminary hearing...whichever is earlier." The LRB analysis of AB 866 suggests victims receive notice of the initial appearance, however, in practice most do not. The first contact is made after the initial appearance, which is after the court sets bail conditions.

Additionally, under AB 866 victims are given the opportunity, at the discretion of the judge, to provide a statement regarding conditions of release. Is it good policy to make a victim's right dependent upon the discretion and practice of any given judge? Compare this to a victim's right to submit a victim impact statement at the time of sentencing. Under s. 972.14 (3)(a), the court must allow a victim to submit a statement and then once it is submitted the judge determines its relevance and how much weight to give the statement. The judge's discretion is not whether to allow the victim to submit a statement, but rather how much consideration to give the statement.

Lastly, was it the intention of the sponsors to not include this newly created right in the list of victims' rights under s. 950.04? If so, what is the reasoning for this decision? By not including it under 950.04, there may be some uncertainty as to whether remedies are available for a violation of the right.

The Department of Justice is committed to ensuring crime victims are treated with the dignity and respect they deserve. We would welcome an opportunity to discuss AB 866 further with the bill's sponsors and to discuss and address the issues described in this letter. Thank you for your attention to this matter.

Sincerely,



Chris Nolan  
Office of Crime Victim Services  
(608) 267-9340

✓ Cc: Representative Gundrum

Statement/Testimony regarding Assembly Bill 866

Related to victim's statements concerning the bail hearings.

My name is Steve Volp and I would like to relate my experience with felony crime and bail procedures and hearings to this committee.

On March 28<sup>th</sup>, 1999 my son, Brian was shot by his girlfriend's ex-boyfriend. The ex-boyfriend, armed with a gun and attempting to conceal his identity, was waiting across the street from the girlfriend's house, waiting for my son to drop her off at home. After my son walked his girlfriend to the door and was returning to his car, the ex-boyfriend called out to him from across the street. My son recognized his voice and body shape and headed immediately for his car, locked the door and attempted to start the car. The ex-boyfriend walked across the street and after banging on the window, fired his gun at point blank range through the driver door window. The bullet struck my son in the back, below the left shoulder blade, traveled just underneath the skin across his backbone and lodged in the area of his right shoulder. The ex-boyfriend thought he had killed my son when he left the car and indeed, my son, was extremely lucky to be alive and not to be paralyzed. This attack was unprovoked and apparently was something that the ex-boyfriend pre-planned knowing their schedules and where to find them.

April 1<sup>st</sup>, 1999 was the ex-boyfriends first appearance in court. We had no knowledge that this initial hearing was going to take place. At this hearing, the commissioner decided that it would be appropriate to set bail for this crime at \$25,000. I can not imagine how any one could possibly feel that this man was safe to release into society, knowing that 3 days earlier he planned and executed an attempt to kill someone in what obviously was a crime based on emotions. What could possibly make this man safe to release after 3 days and how could anyone assure my son, no matter how many restrictions were place on this man, that he wouldn't simply break those restrictions, come after him and kill him this time. From that time on, until the ex-boyfriend was finally sentenced in January 2000, this is the kind of fear my son lived with every time he thought of going anywhere, especially to his girlfriend's house. We were absolutely shocked that bail was set so low or was even allowed at all.

As it turned out, the ex-boyfriend and his family could not raise the initial bail amount of \$25,000, but instead, could only raise \$13,000. A couple of weeks later we were told that there would be a hearing to discuss this man's bail and that his attorney was going to try and get the bail reduced to the \$13,000 that was available. At that point in time I made my feelings known to the DA's office in no uncertain terms, that I would do what ever I could to make sure that this didn't happen, including appearing before the judge to explain my feelings and the fear my son was living under. I did not get any such opportunity. On April 22, 1999 the bail hearing was held and the end result was that the ex-boyfriends bail amount was lowered to the \$13,000 available, and he was released from jail upon posting the bail money.

When I heard that this had taken place, I felt cheated and felt I should have been allowed to impact that bail hearing. That's when I found out there were no provisions in the law to allow a victim to impact a bail hearing. I strongly feel that no matter how good the attorney from the DA's office was, a family member such as myself or my son, could definitely impact this type of bail hearing and could very possibly have prevented the bail from being lowered.

At the final sentencing, which took place in January, 2000, both my son and I testified at the hearing. I believe his written victim impact statement and our testimony at the hearing all played an important part in the sentencing of this man. I felt it put the sentencing hearing on a much more personal level for the judge. After seeing the results of our involvement in the sentencing hearing, I am convinced more than ever, that had we been able to testify at the bail hearings, we would most certainly have had a significant impact on those hearings as well.

This is an important bill that gives victim's a right they deserve to have, the right to be heard. A victim deserves to feel safe, and in my son's case, this was not the end result. And we were helpless to do anything about it. Had we been at these hearings, I can not imagine what a judge or commissioner could possibly have said to my son to assure him that he would be safe if this man's bail were set at \$25,000 or even a higher amount. This was an emotionally based crime and in all our minds, a highly repeatable crime if this man let his emotions get the best of him

again. A victim deserves the right to impact bail hearings. In my son's case, I am certain it would have made a difference.